

EXHIBIT A

Commonwealth Rehabilitation

Robert W. Jackson, LMFT, LPC, CRC, CCM

Rehabilitation Counseling

Case Management

Vocational Evaluation

May 30, 2023

Mr. Joshua Kolsky
U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street NW
Washington, D.C. 20005

RE: Caryn Devins Strickland v. United States of America, et, al.

Case No. 1:20CV66

CONFIDENTIAL INFORMATION & REPORT

Dear Mr. Kolsky:

This letter is in response to your request for my opinion regarding the employability and earning capacity issues in the case of Caryn Devins Strickland v. United States of America, et, al. Ms. Strickland filed a lawsuit alleging sexual harassment, retaliation, discrimination, and failure to provide meaningful review or remedies resulting in her constructive discharge. My opinions in this matter are offered within a reasonable degree of certainty in the field of vocational rehabilitation. In formulating my opinions, I relied upon my education, training and over 35 years of experience in the field of rehabilitation counseling with a specialty in career and vocational rehabilitation counseling. I am a Licensed Professional Counselor and Licensed Marriage and Family Therapist in the Commonwealth of Virginia. I am a nationally Certified Rehabilitation Counselor (CRC) and nationally Certified Case Manager (CCM). I have served as a vocational expert for the Social Security Administration's Office of Hearings Operations since the early 1990s. My opinions are based on a review of the records you provided me, labor market research, and standard resources utilized in vocational rehabilitation.

I reserve the right to supplement my report should additional information become available during discovery regarding this case. The records I have reviewed thus far include the following:

Caryn Strickland Resume
Caryn Strickland's Redacted Deposition
Plaintiff's Designation of Expert Witness and Disclosure of Expert Testimony
Complaint
2022 1099 form from NC Courts
E-mails from Strickland
Internal Revenue Service Records
Personnel Records
Pay Records
Plaintiff's Objections and Answers to Defendant's First Set of Interrogatories
OPM Records

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Case 1:20-cv-00066-WGY Document 285-1 Filed 10/02/23 Page 2 of 12

RE: Strickland v. USA, et, al.

May 30, 2023

Page Two

Ms. Strickland worked as an Assistant Public Defender in the Federal Public Defender's Office from August 2017 until March 2019. She was working out of the Charlotte, North Carolina office. Ms. Strickland alleges she was sexually harassed by a co-worker during the course of her employment. Her complaint alleges she first confronted her co-worker about the alleged sexual harassment and then reported her complaints to her supervisor. She subsequently filed a notice of wrongful conduct and a request for counseling with the U.S. Court of Appeals for the Fourth Circuit. Ms. Strickland alleges her employer failed to provide a meaningful review of her complaints or acceptable remedies. Ms. Strickland indicated in her deposition that she decided to leave the office in November 2018 because she did not think she could continue working in the current environment. She performed her duties through telework prior to the end of her employment in March 2019. Ms. Strickland alleges the end of her employment was a constructive discharge. She was earning \$107,319 per year as an Assistant Public Defender when she left the Federal Judiciary Public Defender's Office. Records indicate she received a Fourth Circuit Clerkship through the EDR process in March 2019. Her salary remained the same at \$107,319 per year. She then clerked for Judge Floyd on the Fourth Circuit from March 2019 until August 2019. Ms. Strickland then went to work as a Solicitor General Fellow in a term position for the Solicitor General's Office of North Carolina from September 2019 until June 2020. She earned \$41.55 per hour for this position. Ms. Strickland then joined the appellate roster for the North Carolina Court system. She is currently working in a self-employed capacity doing indigent criminal defense appellate work.

Ms. Strickland is claiming an economic loss with a present value of \$2,949,962 due to her change in employment status. Part of the calculation of the loss is an assumption that Ms. Strickland will have annual after-tax earnings of \$41,410 given her current employment status as a self-employed attorney doing indigent criminal defense appellate work. It is important to note that this claim of economic loss does not represent a loss of earning capacity. Earning capacity is an individual's ability to obtain and sustain the highest paying employment for which one is qualified based on a variety of factors including age, education, prior work history, skills, abilities, health factors, labor market conditions, etc. Choosing to work in a lower paying job in a different and smaller labor market does not diminish Ms. Strickland's ability to earn more if she desires.

Ms. Strickland is clearly capable of earning well beyond \$41,410 based on her vocational profile. She graduated with a Bachelor of Arts in Political Science and Spanish from the University of Vermont in 2010. Her GPA was 3.98 and she earned the distinctions of summa cum laude and Phi Beta Kappa. Ms. Strickland earned a Juris Doctor degree from Duke University School of Law in 2013. Her GPA was 3.771. Duke University School of Law is a top-ten ranked law school. She earned the distinction of magna cum laude. She was an Editorial Board Member for the Duke Law Journal and she was elected to Order of the Coif. Ms. Strickland has extensive Law Clerk work experience for the United States Court of Appeals for the Fourth Circuit, United States Court of Appeals for the Second Circuit, United States District Court for the Western District of Virginia, and the Vermont Supreme Court. She had a Supreme Court Fellowship, and work experience as an Assistant Federal Public Defender and Research & Writing Attorney. The mean

RE: Strickland v. USA, et, al.

May 30, 2023

Page Three

annual wage for a Lawyer in the United States is \$163,770.¹ The mean annual wage for a Lawyer in North Carolina is \$146,890.² The mean annual wage for a lawyer in the Charlotte, North Carolina region is \$162,310.³ There is no data available for the Asheville, North Carolina region. Lawyers in larger metropolitan areas earn more than smaller areas. For example, the mean annual wage for a lawyer in the Washington D.C. area is \$211,850.⁴

Graduates of the Duke University School of Law in 2022 in private practice had salaries of \$215,000 at the 50th percentile.⁵ By contrast, graduates working in government, public interest, or the military had salaries of \$60,000 at the 50th percentile.⁶ Attorneys working in civil legal services, such as public defenders have the lowest median entry level salary and receive the smallest increases in salary based on years of experience according to the National Association for Law Placement.⁷ The median entry-level salary for public defenders in 2022 was \$59,700 according to a 2022 survey by the National Association for Law Placement.⁸ According to the same survey, the entry-level salary at some big law firms in major cities was \$215,000 in 2022. The survey notes that highly experienced public service lawyers (those with 11 to 15 years in the job) earn less than half of the \$215,000 being paid to rookie lawyers at big law firms in major cities.

Ms. Strickland is capable of earnings comparable to and even exceeding her Assistant Public Defender salary. She moved from the much larger metropolitan area of Charlotte to the much smaller Tryon, North Carolina area. Location does impact earning capability and availability of employment opportunities. The Federal government has a neutral reference policy so very limited and non-opinionated information is given out to potential employers. Ms. Strickland indicated in her deposition that she is not willing to relocate for work. She also said she is not currently looking for a job. Therefore, it appears she is not willing to attempt to mitigate her claimed damages.

The current job market is very favorable for job seekers. The national unemployment rate in April 2023 was 3.4 percent.⁹ The average duration of unemployment nationally in April 2023 was 20.9 weeks.¹⁰ It is reasonable to presume Ms. Strickland would be able to find employment as an attorney with earnings comparable to or exceeding her former

¹ U.S. Bureau of Labor Statistics May 2022 National Occupational Employment and Wage Estimates.

² U.S. Bureau of Labor Statistics May 2022 North Carolina Occupational Employment and Wage Estimates.

³ U.S. Bureau of Labor Statistics May 2022 Charlotte-Concord-Gastonia Metropolitan and Non-Metropolitan Area Occupational Employment and Wage Estimates.

⁴ U.S. Bureau of Labor Statistics May 2022 Metropolitan and Non-Metropolitan Area Occupational Employment and Wage Estimates Washington-Arlington-Alexandria, DC-VA-MD-WV.

⁵ Duke University Law School Employment Outcome Data Report.

⁶ Duke University Law School Employment Outcome Data Report.

⁷ National Association for Law Placement, June 2022 Bulletin, 2022 Public Service Attorney Salary Survey.

⁸ National Association for Law Placement, 2022 Public Service Attorney Salary Survey.

⁹ U.S. Bureau of Labor Statistics, Employment Situation Summary, April 2023.

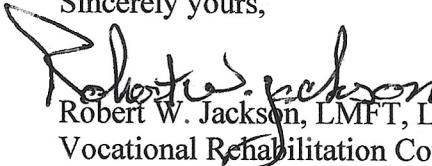
¹⁰ U.S. Bureau of Labor Statistics, Table A-12, Unemployed Persons by Duration of Unemployment.

RE: Strickland v. USA, et, al.
May 30, 2023
Page Four

Assistant Public Defender salary within this timeframe should she choose to seek other employment opportunities.

I have attached my cv, fee schedule, and a five-year testimony list that excludes testimony for the Social Security Administration.

Sincerely yours,


Robert W. Jackson, LMFT, LPC, CRC, CCM
Vocational Rehabilitation Counselor

Commonwealth Rehabilitation

Rehabilitation Counseling

Case Management

Vocational Evaluation

ROBERT W. JACKSON, LMFT, LPC, CRC, CCM
Post Office Box 151 Greenwood, Virginia 22943
Telephone: (540) 456-7161 Fax: (540) 456-7162
e-mail: commonwealthrehab@msn.com

EDUCATION

Post-graduate studies in Rehabilitation Counseling at Virginia Commonwealth University.

M.S. Degree in Rehabilitation Counseling from Virginia Commonwealth University in 1987.

B.S. Degree in Psychology from Virginia Commonwealth University in 1979.

PROFESSIONAL LICENSES

Licensed Professional Counselor (L.P.C.) by the Commonwealth of Virginia Department of Health Professionals, Board of Professional Counselors. License Number: 0701001932.

Licensed Marriage & Family Therapist (L.M.F.T.) by the Commonwealth of Virginia Department of Health Professionals, Department of Professional Counselors. License Number: 0717000342.

PROFESSIONAL CERTIFICATIONS

Certified Rehabilitation Counselor (C.R.C.) by the Commission on Rehabilitation Counselor Certification. Certification Number: 20505.

Certified Case Manager (C.C.M.) by the Certification of Insurance Rehabilitation Specialists Commission. Certification Number: 5264.

PROFESSIONAL EXPERIENCE

1/02 - Present

**Rehabilitation Counselor, Private Practice, Commonwealth Rehabilitation Inc.
Greenwood, VA**

Provide vocational counseling, career counseling and case management services to a variety of client populations. Specialize in counseling and evaluations of clients with

disabilities including traumatic brain injury, spinal cord injury, burns, amputations, orthopedic and neurological impairments, psychiatric impairments, and various other medical impairments. Conduct vocational evaluations to determine employability, earning capacity, labor market access, rehabilitation potential, and rehabilitation service needs. Conduct labor market surveys and provide direct job development/placement services to a variety of populations. Provide vocational expert testimony in courtroom and Industrial Commission settings. Provide vocational expert testimony at disability hearings throughout the United States for the Social Security Administration's Office of Hearing Operations.

7/97 – 12/01

District Manager, CCN/ROI, Inc., Roanoke & Charlottesville, VA

Provided direct supervision to vocational and nurse consultants in Virginia and West Virginia. Responsible for district's budget, profit/loss analysis, staffing, and marketing. Provided vocational counseling, adjustment counseling, and case management services to a variety of client populations. Specialized in counseling and evaluations of clients with disabilities including traumatic brain injury, spinal cord injury, burns, amputations, orthopedic and neurological impairments, psychiatric impairments, and various other medical impairments. Conducted vocational evaluations to determine employability, earning capacity, labor market access, rehabilitation potential, and rehabilitation service needs. Conducted labor market surveys and provided direct job development services to a variety of populations. Provided vocational expert testimony in courtroom and Industrial Commission settings. Provided vocational expert testimony at disability hearings throughout Virginia, Maryland, and West Virginia for the Social Security Administration's Office of Hearings and Appeals.

2/91 – 7/97

Rehabilitation Counselor, Private Practice, Commonwealth Rehabilitation, Inc., Richmond, VA

Provided vocational and career counseling and case management services to a variety of client populations. Specialized in counseling and evaluations of clients with disabilities including traumatic brain injury, spinal cord injury, burns, amputations, orthopaedic and neurologic impairments, psychiatric impairments, and various other medical impairments. Conducted vocational evaluations to determine employability, earning capacity, labor market access, rehabilitation potential, and rehabilitation service needs. Conducted labor market surveys and provided direct job development services to a variety of populations. Provided vocational testimony in courtroom and Industrial Commission settings. Provided vocational expert testimony for Social Security Administration Office of Hearings and Appeals.

10/89 - 2/91

Rehabilitation Counselor/Partner, Vocational Resources, Inc., Richmond, VA

Provided counseling and case management services to clients with disabilities including traumatic brain injury, spinal cord injury, burns, amputations, orthopaedic and neurologic impairments, psychiatric impairments, and various other medical impairments. Conducted evaluations to determine rehabilitation potential, employability and rehabilitation service needs. Assessed impact of disability on earning capacity and labor market access. Conducted labor market surveys and provide direct job development services to a variety of disability populations. Provided vocational expert testimony in courtroom and Industrial Commission settings.

1987 -1989

Richmond District Supervisor/Consultant, Resource Opportunities, Inc., Richmond, VA

Provided direct supervision to Richmond District nurse and vocational consultants. Assisted district manager in conducting performance appraisals on all staff. Trained and assisted in the development of new medical and vocational staff. Conducted case staffing with all staff on a bi-weekly basis documenting recommendations. Assisted in the development of strategic planning and budgeting for medical and vocational components of the district office. Performed various marketing functions aimed at key accounts. Responsible for tracking of cases for various accounts. Assigned cases to appropriate staff. Conducted vocational assessments and labor market surveys. Provided case management services to industrially disabled clients including job development for a case load of between 17 and 20 cases. Provided expert testimony regarding case work activities before the Industrial Commission of Virginia. Professional practice included working with individuals with disabilities including traumatic brain injury, spinal cord injury, amputations, burns, psychiatric impairments, neurological impairments, orthopedic injuries, and various other medical impairments. Job development experience has involved direct placement into competitive employment, sheltered workshop employment, and supportive employment.

1985 - 1987

Rehabilitation Supervisor, Virginia Department of Corrections, Division of Youth Services, Beaumont Learning Center, Powhatan, VA

Supervised the performance of seven counselors, seven cottage managers, and approximately fifty project supervisors to ensure optimum service delivery and compliance with established policies. Hired and trained new counselor and treatment personnel. Conducted performance evaluations on a variety of treatment personnel. Conducted individual and group meetings with staff for evaluating the effectiveness of the delivery of rehabilitation programs. Reviewed the case management practices of individual counselors and treatment teams. Participated in the development of new treatment programs. Monitored treatment program effectiveness by maintaining and correlating routine reports and other research data prepared by counselors. Served on the Facility Staffing Committee. Investigated and responded to employee and offender

grievances. Assisted counselors in dealing with state-wide court service units on problem cases. Frequently testified in Juvenile and Domestic Relation Courts throughout Virginia on behalf of the Department of Corrections.

1982 - 1985

Rehabilitation Counselor, Virginia Department of Corrections, Division of Youth Services, Beaumont Learning Center

Provided individual counseling to juvenile offenders. Co-lead semi-weekly therapy group with staff psychologist. Coordinated treatment services utilizing psychological, educational, and medical disciplines. Negotiated with court service units, families, and other agencies concerning placement issues, follow-up services, and serious incidents. Directed and monitored the unit Treatment Team. Co-lead the substance abuse education program. Testified in courts throughout the state concerning progress of clients, serious incidents, and the transfer of clients to the adult correctional system. Conducted psychiatric commitments for mentally ill offenders.

PUBLICATION

“A Comparison of Job Interviewee Behavior on Four Channels of Communication”, Journal of Counseling Psychology, 1981, Vol. 28, No. 4.

PROFESSIONAL AFFILIATIONS

Member of the International Association of Rehabilitation Professionals in the Private Sector.

Member and past board member of the Virginia Association of Rehabilitation Professionals in the Private Sector.

**Commonwealth
Rehabilitation**

Rehabilitation Counseling

Robert W. Jackson, LMFT, LPC, CRC, CCM

Case Management

Vocational Evaluation

FEE SCHEDULE FOR LEGAL CONSULTING

\$225.00 per hour for all case preparation activities including file review, meetings, interviews, research, deposition and trial preparation review, etc.

Travel time billed at ½ the professional rate

\$800.00 for up to two hours of deposition or trial testimony. Additional deposition or trial testimony billed at a rate of \$300.00 per hour. Travel time billed at \$112.50 per hour plus expenses. Deposition and trial testimony fees, including travel time and expenses are to be paid two weeks in advance.

.655 cents per mile

Expenses billed as incurred.

Photocopying is billed at .50 for the first 50 pages, .25 per page thereafter.

\$300.00 fee for time reserved for trial or deposition if appointment is cancelled without 60-day notice in advance of appointment

\$ 1,000.00 retainer fee required for all confirmed cases. Retainer must be received prior to working on the case. Retainer fee is non-refundable.

TAX ID#: 75-2991199

Post Office Box 151 Greenwood, Virginia 22943 Telephone: (540) 456-7161
FAX: (540) 456-7162 e-mail: commonwealthrehab@msn.com

ROBERT JACKSON'S TESTIMONY & DEPOSITIONS LIST

Scott B. Brall v. Norfolk Southern Railway Company – U.S. District Court Western District of Virginia Big Stone Gap Division – Case No. 2:17-CV-17 Deposition on 3/30/18

Stephanie Cockrell v. Grant Cockrell – Botetourt County, Virginia Circuit Court – Case No.: CL16-385 - de bene esse Trial Testimony on 6/25/18

Cody Howard v. Annie Rutherford, P.A. and James River Emergency Group, LLC – Richmond City, Virginia Circuit Court – Case No.: CL16-2650 – Deposition on 6/26/18

Jennifer Merritt v. David Merritt – Bedford County, Virginia Circuit Court – Case No.: CL18-2411 – Trial testimony on 12/19/18

Elizabeth Gentiluomo v. Andrew Gentiluomo – Roanoke County, Virginia Circuit Court – Case No.: CL17-1178 de bene esse Trial Testimony on 5/13/19

Jeremiah Clem v. Charles Silvius – Frederick County, Virginia Circuit Court – Case no. CL17000209 - de bene esse Trial Testimony on 5/28/19

Lori Parrish v. Tony Parrish – City of Salem, Virginia Circuit Court – Case No. CL18-331 – Trial Testimony on 6/21/19

Donald J. Russell v. Northern Management Services, Inc. – U.S. District Court, Western District of Virginia – Civil Action No. 7:19-CV-280 – Trial Testimony on 11/5/19

Sarah Nielsen v. Benjamin Nielsen – Roanoke County, Virginia Circuit Court – Case No. CL18-1081 - de bene esse Trial Testimony on 11/11/19

Kenneth Bolin v. Cynthia Bolin – Roanoke County, Virginia Circuit Court – Case No. CL 19-313 de bene esse Trial Testimony on 7/31/20

Keane v. Ibarra – Jefferson County, West Virginia Circuit Court – Case No. 19-C-39 – Trial Testimony on 8/5/20

Susan Hollenbeck v. Elite Contractors, Inc. and Emmanuel Trikilis U.S. District Court, Western District of Virginia – Civil Action No. 7:19-cv-676 – Deposition Testimony on 9/4/20

Heather Dudley v. Farrah Booth – Franklin County, Virginia Circuit Court – Case No. CL20-3455 – Zoom Deposition Testimony on 9/16/20

Robert F. Livingston, III v. Darrell Powledge, M.D., M.P.H. – City of Roanoke, Virginia Circuit Court - Case No. CL19002376-00 – Zoom Deposition Testimony on 4/8/21

Testimony List
Page Two

Deborah Coffee Icenhour v. Town of Abingdon U.S. District Court, Western District of Virginia Abingdon Division – Case No. 1:19-CV-00033 - Zoom Deposition Testimony on 5/14/21

George Warren Kelly v. Town of Abingdon U.S. District Court, Western District of Virginia Abingdon Division – Case No. 1:19-CV-00032 - Zoom Deposition Testimony on 5/14/21

Susan Hollenbeck v. Elite Contractors, Inc. and Emmanuel Trikilis U.S. District Court, Western District of Virginia – Civil Action No. 7:19-cv-676 – de bene esse Trial Testimony on 6/15/21

Kimberly Mattson-Hanson v. Dr. Scott M. Hansen Roanoke City Circuit Court – Case No. CL20-1034 – Trial Testimony on 9/22/21

Lori A. Parrish v. Tony L. Parrish – Roanoke City Circuit Court-Salem Circuit – Case No. CL18000331-02 – Trial Testimony by Zoom on 3/25/22.

Margaret Glenney v. Robert Glenney - Roanoke County Circuit Court- Case No. CL15000934-00 de bene esse Trial Testimony on 5/6/22

Melissa Allen v. RBC Capitol Markets, LLC, Warren Bischoff, and John Gerold – Montgomery County, Maryland Circuit Court – Case No. 457953-v – Deposition Testimony on 5/20/22